

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

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97759

FILE: B-184620

DATE: November 11, 1975

MATTER OF: J. Faraldo Sons, Inc.

DIGEST:

Where purchaser bid on multiple items of surplus aluminum scrap and unsuccessful item bids were in line with median bid and current market appraisal, but successful bid on similar item was in excess of four times the next high bid and more than five times the current market appraisal, agency may rescind sales contract at bidder's request, since contracting officer was on constructive notice of possibility of mistake and failed to verify bid prior to award.

This case arises from the request of the Defense Supply Agency (DSA) for our concurrence in its determination that Sales Contract No. 27-5251-107 may be rescinded for mistake.

The contract was awarded to J. Faraldo Sons, Inc. (Faraldo), under Invitation for Bids No. 27-5251, which advertised for sale various items of surplus property, including clean aluminum scrap (Items 23, 24, and 25, all located at Bayonne, New Jersey).

The record indicates that Faraldo was the successful bidder on Item 24 at a high bid price of \$0.51 per pound. Faraldo claims that it intended to submit a bid of \$0.051 per pound and that the bid reflects a clerical error, as is supported by its work sheets.

It appears that the Faraldo bid on Item 24 is more than four times the next high bid (\$0.1234 per pound), eight times the median bid (\$0.06 per pound), and five times the current market appraisal as established prior to the bid opening (\$0.10). We note that Faraldo bid \$0.051 per pound on Item 23 and it submitted a bid of \$0.081 per pound on Item 25, both of which were similar to Item 24.

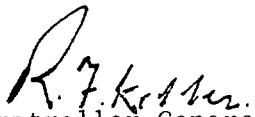
While in 49 Comp. Gen. 199, 202 (1969), we noted that generally, "in sales of surplus property, the existence of a substantial discrepancy between the erroneous bid and the second high bid or the current market appraisal would not necessarily * * * place the contracting officer on notice of mistake * * *" we stated that:

"* * * wide price variations normally are not encountered in the sale of scrap metals because of the established market for this material and the limited uses to which it may be put."
/Citations omitted./

We have consistently held that where it is alleged that a mistake was made in a bid for the sale of Government scrap, particularly scrap metal, and where a substantial discrepancy appears between the high and next high bid, and the high bid and current market appraisal, and where there is also a comparatively narrow range among the lower bids, the contracting officer is on constructive notice of the possibility of mistake and should request verification before awarding the contract. Sitkin Smelting and Refining, Inc., B-182334, December 16, 1974, 74-2 CPD 348.

The contracting officer states that he was not on notice of a mistake "inasmuch as the computation reflected on /the/ bid sheet was properly extended and equaled the amount reflected on the face of /the/ bid sheet." While we have on occasion referred to a discrepancy between unit and extended prices as an additional indication that an error had been made, that fact alone is not determinative. Cf. Clarence L. Stevenson, B-183710, June 30, 1975, 75-1 CPD 405; Harvey Clark, B-183754, June 9, 1975, 75-1 CPD 350. In the instant case, Faraldo's bid on Item 24 was not only out of line with the other bids and the Government estimate for that item, but it was also inconsistent with Faraldo's bids on Items 23 and 25 for similar material. Cf., e.g., B-172881, July 16, 1971.

The sales contracting officer was therefore on constructive notice of the possibility of mistake in Faraldo's bid and should have requested verification of the bid prior to award. Accordingly, Sales Contract No. 27-5251-107 may be rescinded without liability to Faraldo as administratively recommended.


Deputy Comptroller General
of the United States